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5 Attorney for Defendant:
CARLOS E. KEPKE

12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 v.
15 CARLOS E. KEPKE,
16 Defendant

Case No. 3:21-CR-00155-JD

**DECLARATION OF GRANT P. FONDO
IN SUPPORT OF OPPOSITION TO
MOTION TO ADMIT EVIDENCE OF
UNDERCOVER CONTACTS**

Date: October 17, 2022
Time: 10:30 a.m.
Courtroom: 11, 19th Floor
Judge: Hon. James Donato

DECLARATION OF GRANT P. FONDO

I, Grant P. Fondo, declare as follows:

1. I am a partner with the law firm Goodwin Procter LLP and a member of good standing of the bar of this Court. I represent Defendant Carlos E. Kepke (“Mr. Kepke”) in the above-captioned matter. I submit this Declaration in support of Mr. Kepke’s Opposition to the Government’s Motion to Admit Evidence of Undercover Contacts. Unless stated otherwise, this declaration is based on my personal knowledge, and if called as a witness I could and would testify as follows:

2. The Government produced in discovery a Memorandum of Interview for Robert Smith dated August 13–14, 2020. Paragraph 119 provides as follows:

Smith was asked if he told Kepke that Waddington did not provide enough money to settle trust. Smith stated that he did not tell Kepke that. Smith was further asked about what specific rules Kepke said Smith had to follow in relation to the trust. Kepke told Smith that Waddington had to provide the money to settle the trust. Smith did not tell Kepke that Waddington did not send him enough money. Smith told Kepke that he (Smith) had the cash, and Kepke told Smith to go get money orders. Smith told Kepke that Waddington had sent him cash, but not that it wasn't enough cash. Kepke in turn told Smith that he couldn't send cash and to get money orders instead. Smith then withdrew sufficient cash and got money orders to send the trust money to Godfrey.

3. Attached hereto as **Exhibit A** is a true and correct copy of screenshots of KepkeLaw.com, produced by the Government in this matter.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 24, 2022 in Los Altos, California.

1 Dated: August 24, 2022

GOODWIN PROCTER LLP

3 By: /s/ Grant P. Fondo

4 GRANT P. FONDO (SBN 181530)

5 *GFondo@goodwinlaw.com*

6 **GOODWIN PROCTER LLP**

7 Attorney for Defendant
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CARLOS E. KEPKE

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Northern District of California by using the CM/ECF system on **August 24, 2022**. I further certify that all participants in the case are registered CM/ ECF users and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed on **August 24, 2022** in Los Altos, California.

/s/ *Grant P. Fondo*

GRANT P. FONDO